

Court of Appeals, State of Michigan

ORDER

Milton Hill v Detroit Edison Co

Docket No. 259996

LC No. 03-334622-CD

Kirsten Frank Kelly
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to file a reply brief is GRANTED.

The Court considers the application and orders pursuant to MCR 7.205(D)(2) that the November 23, 2004, order of the Wayne County Circuit Court denying summary disposition to defendant hereby is VACATED. The circuit court ruled at the hearing that defendant's failure to post the positions given the race of the three persons hired was direct evidence of race-based discrimination. The Court does not find that defendant's failure to post the positions, standing alone, constitutes direct evidence of discrimination requiring the conclusion that unlawful discrimination was a motivating factor. See *Sniecinski v Blue Cross & Blue Shield of Michigan*, 469 Mich 124, 133; 666 NW2d 186 (2003). Accordingly, the case is REMANDED to the circuit court for it to reconsider defendant's motion in light of the burden shifting analysis set forth in *McDonnell Douglas Corp v Green*, 411 US 792; 93 S Ct 1817; 36 L Ed 2d 668 (1973).

The motion for stay is DENIED.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 02 2005

Date

Sandra Schultz Mengel
Chief Clerk